

REMARKS

Rejection of claims 1-6, 8-11, and 18 under 35 U.S.C. § 103(a)

Claims 1-6, 8-11, and 18 were rejected as obvious over Morozov *et al.* for its teaching of 2,3-dihydro-2-oxo-1H-indole-1-acetamide as having anticonvulsive activity in view of Silverman for its teaching of H and F as bioisosteres. For the following reasons, the applicants respectfully traverse.

This rejection is essentially the same as the rejection over Morozov *et al.* in the previous Office Action, the principal difference being the additional reliance on Silverman for its teaching of H and F as bioisosteres and, therefore, substituting F or H would “produce broadly similar biological properties.” But the applicant submits that this teaching of Silverman further establishes the non-obviousness of the presently claimed compounds. As demonstrated in the previously submitted Rule 132 Declaration of Benoit Kendra, substitution of H at the R⁵ position with hydrophobic moieties having higher electronegativity (halogens and trifluoromethyl) results in compounds having surprisingly greater activity in the audiogenic seizure assay compared to the compound of Morozov *et al.* (from 4.5 to 200 times greater activity). Thus, rather than having broadly similar biological properties, as taught by Silverman, the compounds of the invention have substantially *greater* activity, a nonobvious result in view of Silverman.

Furthermore, Dr. Kendra attested that these improved properties of the presently claimed compounds could not have been predicted. Because a compound and all of its properties must be considered together (*In re Papesch*) and predictability is a *sine qua non* of obviousness, the presently claimed compounds cannot be obvious over the combination of Morozov and Silverman.

Information Disclosure Statement

The Office Action stated that the previously submitted IDS was only partially compliant and therefore only partially considered. But the applicants believe the IDS was fully compliant, and the Examiner initialed all the publications on the form PTO/SB/08a. The undersigned contacted the Examiner on March 24, 2009, regarding this issue, and the Examiner indicated that the statements regarding partial compliance were in error and would be acknowledged in a future communication.

If there are any questions or comments regarding this Response or application, the Examiner is encouraged to contact the undersigned attorney as indicated below.

Respectfully submitted,

Date: April 29, 2009

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